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**Contract Database Metadata Elements**

Title: **Schroeppel, Town of and International Union of Operating Engineers (IUOE), AFL-CIO, Local 545B (1999)**

Employer Name: **Schroeppel, Town of**

Union: **International Union of Operating Engineers (IUOE), AFL-CIO**

Local: **545B**

Effective Date: **01/01/99**

Expiration Date: **12/31/00**

PERB ID Number: **8094**

Unit Size: **10**

Number of Pages: **21**

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Schroeppel, Town Of And luoe Local  
545-B (Schroeppel Highway Dept)

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37470 BC

**AGREEMENT BY AND BETWEEN**

**INTERNATIONAL UNION OF OPERATING ENGINEERS  
LOCAL 545B**

**and**

**TOWN OF SCHROEPPPEL**

**January 1, 1999 - December 31, 2000**

**NYS PUBLIC EMPLOYMENT RELATIONS BOARD  
RECEIVED**

**FEB 01 1999**

**CONCILIATION**

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## **PREAMBLE**

The TOWN OF SCHROEPPPEL, hereinafter referred to as the Town and the International Union of Operating Engineers, Local 545-B, AFL-CIO, hereinafter referred to as the Union, declare it to be their mutual policy to promote and maintain a harmonious and cooperative relationship between the Town and its employees in order to protect the public by assuring at all times the orderly and uninterrupted operation and function of government. The Town and the Union recognize the common interest in the public service of the Town of Schroeppele beyond their collective bargaining relationship and pledge to strive together to insure the highest quality of service to the people of the Town of Schroeppele, and it is with these goals in mind that they are entered into this collective agreement.

## **SECTION 1 - APPLICABLE LAW**

1.1 This agreement shall be governed by the Public Employees Fair Employment Act and applicable State and Federal Laws not consistent with said Act.

## **SECTION 2 - EQUAL EMPLOYMENT OPPORTUNITY**

2.1 Acknowledging the moral principles inherent in Federal and State Legislation, the parties to this agreement hereby affirm that they shall ensure equal opportunities for all qualified individuals without consideration of their age, sex, race, creed, color, national origin, political affiliation or belief. The scope of employment opportunities shall also include the non-discrimination of physically and mentally handicapped individuals.

It is further affirmed the concept and philosophy of equal opportunities shall be provided for, but not restricted to all components of employment, recruitment, selection, assignment, compensation, benefits promotion and training.

All references to employees in this agreement designate both sexes and whenever the male gender is used, it shall be construed to include male and female employees.

## **SECTION 3 - RECOGNITION**

3.1 The Town recognizes the Union as sole and exclusive bargaining representatives for the purposes of establishing salaries, wages, hours, and other terms and conditions of employment as defined in Section 201 (4) of the Civil Service law, for members of the defined bargaining unit for the duration of this agreement.

3.2 The Union represents employees of the Town holding full-time positions in a title reflected in Section 38.

3.3 All temporary, seasonal or casual employees shall be excluded from the bargaining unit. All Employees who fail positions within the classification of exempt or unclassified as defined by the Civil Service Rules shall be excluded from the bargaining unit. Employees and positions not included in the defined bargaining unit shall not be entitled to the provisions of this agreement.

3.4 In the event the Employer creates positions of a part-time nature which have duties the same or similar to those held by full-time employees then the Employer agrees to negotiate with the Union the impact these positions would have on the current and/or affected positions. In the event the parties cannot agree, one/and both may petition PERB for inclusion of these new positions into the unit.

#### **SECTION 4 - NO STRIKE CLAUSE**

4.1 The Union and the employees agree that during the life of this agreement they will not cause, encourage, participate in, condone or support any strike or picketing against the Town, or on any slow down or other interruption of or interference with the normal functions of the Town.

4.2 The Employer agrees that they shall not conduct a lockout for the duration of this Agreement.

#### **SECTION 5 - AGREEMENT SCOPE**

5.1 The parties acknowledge that during the negotiations which result in this agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject matter not removed by law from the area of collective bargaining, and that the understanding and agreements arrived at by the parties after exercise of that right and opportunity are set forth in this agreement. Therefore, the Town and the Union,

for the duration of this agreement, each voluntarily and unqualifiedly waives the right, and each agreed that the other shall not be obligated to bargain collectively with respect to any subject matter referred to or covered in this agreement, or with respect to any subject or matter not specifically referred to, or covered in this agreement even though such subject or matters may not have been within the knowledge or contemplation of either or both of the parties at the time they negotiated or signed this agreement. This agreement may only be amended during its term by the parties mutual agreement in writing.

5.2 This agreement supersedes and cancels all prior practices and agreements, whether written or oral, unless expressly stated to the contrary herein, and together with any letters of understanding executed concurrently or after this agreement constitutes the complete and entire agreement between the parties and concludes bargaining for its term.

#### **SECTION 6 - MANAGEMENT RIGHTS**

6.1 The Town retains the sole right to manage its business and services and to direct the working force, including the rights to decide the number and location of its business and service operations, the business and service operations to be rendered, and the methods, procedures and means used in operation of its business and services, and the control of the buildings, real estate, materials and all equipment which may be used in operating its business and services or in supplying its business and services, to maintain order and efficiency in all its departments and operations, including the sole right to hire, layoff, assign, transfer, promote, discipline, discharge for just cause, suspend; to determine the starting and quitting time and the number of hours to be worked; to establish specifications for each class of positions and to classify or reclassify and to allocate or reallocate new or existing positions in accordance with applicable law; subject to such regulations governing the exercise of those rights as are expressly provided in this agreement, or provided by law.

6.2 The Union recognizes its responsibility to act at all times in good faith in carrying out any and all provisions of this agreement. The Union acknowledges the right to management to direct and control management policies subject to the obligation of the agreement. Employees will cooperate with management to facilitate efficient operations.

6.3 All of the Authority, rights and responsibilities possessed by the Town are retained by it except as expressly limited by other provisions of this agreement.

## **SECTION 7 - DISCIPLINE AND DISCHARGE PROCEDURE**

7.1 An employee covered by this agreement who has successfully completed his/her probationary period shall utilize the following procedure for disciplinary and discharge matters in lieu and in place of the procedures specified in Section 75, 76 and 77 of the Civil Service Law.

7.2 Disciplinary action shall consist of such penalties as may be imposed by the Employer. A notice of such discipline shall be made in writing and served upon the employee with a copy to the Union.

7.3 If the employee disagrees with the disciplinary action imposed, the employee/or the Union may submit a grievance at the Step 2 level of the Grievance procedure as specified in Section 27 of the agreement. Failure to submit a grievance within seven (7) calendar days of receipt of the notice of discipline will constitute acceptance of the imposed penalty by the employee and Union and the matter be settled in its entirety.

7.4 An employee shall have the right to be represented in disciplinary matters by a Union representative if the employee elects to do so. Nothing contained herein shall be construed as limiting the right of an employee to informally resolve the disciplinary matter by settlement with the department head and the employee may waive his/her rights to the procedure as outlined herein. Any settlement agreed upon between the parties shall be final and binding upon all parties, a copy to be provided to the Union.

7.5 No disciplinary action shall be commenced by the Town more than six (6) months after the occurrence of the alleged act(s) for which discipline is being considered provided, however, that such time limitation shall not apply where the act (s) would, if proved in a court of appropriate jurisdiction, constitute a crime.

## **SECTION 8 - SENIORITY**

8.1 Seniority Defined. Seniority means an employee's length of continuous service for the Employer from the employee's original date of hire as a full-time employee, as adjusted by the subtraction of any unpaid leave time whether authorized or not.

8.2 Seniority Acquisition. A full-time employee will acquire seniority after successfully completing the probationary period and such seniority will then date from the beginning of such full-time employment.

8.3 Seniority Loss. An employee shall forfeit all accrued seniority and, if re-employed subsequently, have only the status of a new employee, under any of the following conditions:

- a. When an employee voluntarily resigned from employment with the Town; or
- b. When the employee is discharged for just cause; or
- c. When the employee fails to return to work at the expiration of an authorized leave of absence; or
- d. When the employee resigns in lieu of dismissal; or
- e. When the employees retires.

8.4 Seniority Retention. An employee will retain, but not accrue, seniority for one (1) years after layoff, provided the Employer re-employs the employee during such time.

8.5 Seniority Application. Seniority will apply to:

- a. Layoff and recall of non-competitive and labor class employee;
- b. Vacation time selection.
- c. Job selection for promotional opportunities where ability and qualifications to perform the required work are, among the employees concerned, relatively equal.
- d. Overtime assignments in accordance with the provisions of Article 17.3 Section 17.

8.6 Non-application of Seniority. Seniority does not apply and shall not be required to be used as a determining factor in assigning particular types of work to employees within a position classification, or in assigning employees machines, equipment, or places of work.

## **SECTION 9 - PROBATIONARY PERIOD**

9.1 Probationary periods will be administered in accordance with the Classified Rules for Civil Service.

9.2 In no instances shall the probationary period be less than eight (8) weeks nor more than twenty-six (26) weeks.

## **SECTION 10 - LAYOFF AND RECALL**

10.1 Layoff in the Competitive Class. The Town, in its discretion, shall determine whether layoffs are necessary. If it is determined that layoffs are necessary, layoff and recall of competitive class employees shall be governed by the Civil Service Law and the Classified Rules for Civil Services.

10.2.1 Layoff in the Non-Competitive or Labor Class. The Town, in its discretion, shall determine whether layoffs are necessary. If it is determined that layoffs are necessary, employees in a non-competitive or labor class job title will be laid off in the following order:

- a. Probationary employees shall be laid off first.
- b. Thereafter, permanent employees having seniority shall be laid off on the inverse order or seniority.

10.2.2 Employees to be laid off will have at least seven (7) calendar days notice.

10.2.3 When an employee in the non-competitive or labor class is laid off, he/she shall be permitted to exercise his/her seniority rights to replace the least senior employee in the same job title or bump down into whatever title may be available in accordance with seniority.

10.2.4 Employees who are laid off shall be placed on a recall list for a period not to exceed one (1) year. If, during the existence of a valid recall list, a vacancy which is to be filled occurs, then an employee will be recalled from layoff to the same title he/she was in at the time of layoff. Such recall shall be in the inverse order of layoff based upon seniority, provided the employee is able to perform the work.

10.2.5 Notice of recall shall be sent to the employee at his/her last known address by certified mail, return receipt requested and copy sent to the union. If the employee fails to return to work after receipt of letter on the date specified in the recall notice, he/she be considered a quit and removed from the recall list. The Town shall be deemed to have fulfilled its obligation by mailing the recall notice by certified mail, to the mailing address provided by the employee, it being the obligation and responsibility of the employee to provide the Town with his/her latest mailing address.

10.2.6 Temporary, seasonal or casual employees who have been laid off shall have no recall privileges.

## **SECTION 11 - UNREPORTED ABSENCES**

11.1 Employees are required to report all absences from work to a telephone number designated by the department head no later than one-half (1/2) hour prior to the time the employee is expected to report to work.

## **SECTION 12 - EMPLOYEE ADDRESS AND TELEPHONE NUMBER**

12.1 It shall be the responsibility of an employee to keep the Town informed of his/her current address and telephone number where he/she can be notified of emergencies. Changes in schedules, disciplinary actions and other matters.

## **SECTION 13 - CHANGE IN WORK DAY OR SHIFT**

13.1 Any employee whose work shift has a change from his/her normal work day shift, shall be given twenty-four (24) hours advance notice by the department head, with the exception of emergencies. The Employer agrees not to change the employee's work day or shift for the sole purpose of eliminating overtime.



## SECTION 14 - SICK LEAVE

14.1 Full-time employees covered by this agreement shall earn sick leave at the rate of one (1) day per month of service. At least one (1) month of full-time employment is required prior to use of earned sick leave credits. Sick leave credits may not be earned unless the employee is on full-pay duty status for at least twelve (12) working days during the calendar month.

14.2 Unused sick leave credits shall accumulate but only up to a maximum of one hundred fifty (150) days. Upon attaining the maximum accumulation, sick leave is no longer earned. An Employee has no right to financial compensation (cash buy-out) for unused sick time upon termination of employment.

14.3 When an employee must be absent on sick leave, the employee is required to notify his/her department head no later than one-half (1/2) hour prior to the time the employee is expected to report to work. Sick leave credits shall not be granted unless such report is made but instead will be considered as unauthorized time off without pay. Sick leave shall be granted for illness, injury, or exposure. Sick leave shall be granted for illness, injury or exposure of the following relatives of the employee: Mother, Father, Sister, Brother, Spouse, Children, Grandfather, Grandmother and Grandchildren. The above terms shall include natural, step and in-law relations.

14.4 In the case of absence of three (3) or more consecutive work days, a physician's statement verifying the employee's use of sick time may be required. If the employee fails to submit sufficient proof of illness/injury when required to do so, such absence shall be considered as unauthorized time off without pay. Upon return from sick leave of fifteen (15) days or more, the employee shall submit to the department head a physician's statement attesting to the employee's recovery and physical fitness to perform the duties of his/her assignment. No employee will be allowed to return to work who has failed to present such physician's statement.

14.5 Sick leave credits may be used by the employee in units of days, half days, or hours. No request for less than full-hour units will be considered. All employees must file a written request for sick leave immediately following their return to work.

14.6 With regard to sick leave, any time taken off before 40 hours have been worked in any work week shall be deducted from that employee's accrued sick time, and the employee shall be paid at the regular hourly rate. Any time taken off after 40 hours have been worked in any work week shall mean that the employee's sick time is charged 1 & 1/2 hours for every hour missed. The employee shall be paid that time at the overtime rate. This means that all sick time as equated, on an hour for hour basis, the same as work time.

14.7 This Section shall no way alter the meaning or intent of Section 14.6. However, it is understood that any employee who takes a sick day greater than four (4) hours shall deem him or herself ineligible for overtime work in that calendar day unless specifically requested to do so by the Highway Superintendent. Such request would also include call in through the use of a beeper/pager.

The intent of this Section is to prevent the abuse of earned sick time in relation to eligibility for overtime.

## SECTION 15 - WORK HOURS

15.1 The basic work sheet for employees shall be forty (40) hours consisting of five (5) work days of eight (8) hours per day, Monday through Friday.

15.2 Nothing in this Agreement or in this section shall be construed as a guarantee of hours of work per day or per week.

15.3 During a designated period occurring between May 1 through October 31, of each year of this agreement, the Highway Superintendent, with the prior approval of the Town Board, may adjust a compressed forty (40) hours per week schedule consisting of ten (10) hours per day and four (4) consecutive days per week. Employees shall be provided a minimum of one (1) week's advance notice both before the commencement and termination of such compressed work schedule.

15.4 When employees are assigned to work the compressed four (4) day work week, all leave accruals shall be converted to hourly units and one (1) hour of paid leave time shall be changed for each hour work absence.

15.5 Beepers/Pagers - from the week of December 15th through the week of April 15th. Beepers - Any or all Highway Department employees may be required to wear beepers/pagers at the Highway Superintendent's discretion. These devices shall be used to place employees "on call". An employee may be required to wear this device for the standard work week or any part thereof. In either case that employee(s) shall be eligible for "on call payment" which shall consist of one (1) hour comp time per week, meaning 1 hour in which the employee(s) can take off and be considered, in all aspects, as time worked unless otherwise stated. An employee shall be granted use of his or her comp time at their request.

If an employee is called in while he/she is on comp time that comp time shall be considered as not used. All comp time earned must be used in the calendar year in which it is earned.

Any employee who does not respond to a "call in" as the result of wearing a beeper/pager designated by the Highway Department Superintendent shall forfeit his/her comp time for that week. Comp time shall be granted as one (1) hour per week of straight time regardless of how or when it is earned. Unless otherwise required by State or Federal law comp time shall not be applied towards the calculation of overtime or premium pay.

## SECTION 16 - WAGE RATES DEFINED

16.1 Definition - Regular Compensation Rate: The regular compensation rate is that reflected in the salary schedule specified in Section 38. Said regular compensation rate does not include and additional or premium compensation.

16.2 Definition - Premium Compensation: Premium Compensation is that compensation on which is in addition to the employee's regular compensation rate as defined herein.

16.3 Premium Compensation Limitation: Each type of compensation described in the agreement shall be considered and computed separately. At no time shall premium compensation earned by an employee be compounded or pyramided.

## **SECTION 17 - OVERTIME**

17.1 Employees covered by this agreement shall be paid one and one-half (1 1/2) times their regular straight time hourly rate of pay for all authorized hours of work in excess of forty (40) hours in a week.

17.2 Unpaid time off shall be considered as time worked in determining eligibility for overtime premium compensation.

17.3 When overtime assignments are made to full-time employees so far as practicable and without reducing efficiency or work performance, such overtime assignments shall be distributed as equitably as possible to those employees who are qualified to perform the specified overtime required in accordance with seniority. The overtime assignments as described above shall first be afforded to the employees so qualified who has the least number of overtime hours to his/her credit. If this employee declines or is otherwise unable to work overtime, the qualified employee with the next fewest number of overtime hours to his/her credit shall be offered the assignment. This procedure shall be followed until the required number of employees have been selected for the required overtime assignment. Overtime offered to an employee which the employee declines or is otherwise unable to work shall be counted the same as those overtime hours actually credited to the other employee's overtime balance.

For the purpose of computing overtime credit, any new employee covered by this agreement shall automatically be credited at the time of appointment with such overtime hours as are equal to those credited overtime hours of the like qualified employees then having the greatest number of overtime hours to his/her credit.

## **SECTION 18 - RETIREMENT**

18.1 The Town agrees to provide Section 75G of the New York State Retirement and Social Security Law for all eligible employees covered by this agreement.

## **SECTION 19 - MILITARY SERVICE LEAVE**

19.1 Any covered employee who is a member of a reserve force of the United States or this State and who is ordered by the appropriate authorities to attend a training program or to perform duties under the supervision of the United States or this State shall be granted a leave of absence during the period of such activity with no loss of time or pay not to exceed thirty (30) calendar days per year as provided by the law. The employee shall provide to the Employer a copy of the employee's military orders at least two (2) weeks prior to going on such leave in the event of scheduled military duty or upon return to work in the event of emergency military duty.

## SECTION 20 - HOLIDAYS

20.1 Holidays: Designation. Employees will receive the following holidays annually:

New Year's Day	Thanksgiving	Labor day
Memorial Day	Christmas Day	Election Day
Columbus Day		
Independence Day	Friday prior to Memorial Weekend	
Veteran's Day	Friday prior to Labor Day Weekend	

Lincoln's Birthday shall be observed with Memorial weekend and Washington's Birthday shall be observed with Labor Day weekend.

20.2 Holiday Observance. Christmas Day and New Year's Day shall be observed on December 25th and January 1st respectively. All holidays that fall on Saturday shall be celebrated on the preceding day (Friday) during the 5/8's work schedule. During the 4/10's work schedule all holidays that fall on either Friday or Saturday shall be celebrated on the preceding scheduled work day. Holidays that fall on Sunday will be observed on the following scheduled work day.

20.3 Holiday Pay. Employees who do not work on a holiday shall receive holiday pay computed at their regular straight time hourly rate for the number of hours for which they are normally scheduled to work on a regular work day in either 5/8's or 4/10's work schedule.

In the event an employee is required to work a designated holiday he/she shall be paid at two times their regular hourly rate.

20.4 Holiday Eligibility Requirement. In order to be eligible for holiday pay as defined in this Section, the employee must actually work his last scheduled work day prior to the holiday and his first scheduled workday subsequent to the holiday.

## SECTION 21 - VACATIONS

21.1 A full-time employees shall earn vacation leave credits in accordance with the following schedule:

Completed years of Continuous Service	Vacation Days Per Year	Hours
After 1 - 5 years	12	96
After 6 - 10 years	18	144
After 11 - 18 years	24	192
After 19 years	25	200
After 21 years	27	216
After 22 years	28	224
After 23 years	29	232
After 24 years	30	240

21.2 Vacation days will be credited on the anniversary date of employment as adjusted in accordance with Section 8 Definition of Seniority.

21.3 All requests for vacation leave must be approved by the department head. The employee must file a written request for vacation leave with the department head at least fifteen (15) working days in advance of the requested leave. In the case of an emergency that concerns the Welfare of the citizens of the Town, the department head may cancel and reschedule any or all approved vacations in advance of their being taken.

21.4 Vacation pay will be at the employee's regular compensation rate. Vacation leave shall be utilized in not less than full-days units.

21.5 It is expected that all employees qualified for vacation shall take their vacation time off. However, upon request by the employee and subject to approval by the department head, unused vacation leave may be carried over into the succeeding year but, in no instance will accumulation of vacation leave exceed one (1) succeeding year.

21.6 Holidays falling within the vacation leave period shall not be changed to vacation leave used. An employee is not entitled to utilized sick leave during the vacation period.

21.7 The Town reserves the right to shut down all or part of its operation during the year. Employees who are eligible may use their vacation during such period. Employees will be notified of the shutdown schedule no later than thirty (30) calendar days prior to the first day of shutdown.

## **SECTION 22 - PERSONAL LEAVE**

22.1 Employees shall receive three (3) personal leave days per year, noncumulative with days being requested in advance along with a stated reason reflecting that such business cannot be conducted outside of normal work hours, in order that such days not be used for vacation.

Probationary employees shall be entitled to two (2) personal days in their first year of employment only after and until their probationary period is exhausted. Probationary employees shall have no claim to sick or personal days upon a negative evaluation of their probationary period.

## **SECTION 23 - BEREAVEMENT LEAVE**

23.1 Bereavement leave of three (3) days shall be granted to an employee for the burial and interment of a relative as follows: Mother, Father, Sister, Brother, Spouse, Children, Grandfather, Grandmother and Grandchildren. The above terms shall include natural, step and in-law relations.

23.2 Employees requesting Bereavement Leave may be asked for proof of relationship and/or proof of death. Failure to comply with said request will result in loss of bereavement pay.

23.3 It is agreed that if a death occurs within the scope of relatives mentioned in 23.1 while an employee is on vacation, bereavement leave shall start upon notification of the Supervisor by the employee.

## **SECTION 24 - JURY AND COURT ATTENDANCE**

24.1 Covered employees shall be granted a leave of absence with pay when they are required to report for jury duty or to attend court pursuant to a subpoena or other court order not as a party to the litigation. An employee must notify his/her department head no later than his/her first scheduled work day following notice of selection of jury duty or receipt of subpoena or court order. An employee on such leave will be paid the difference between the pay actually received for such attendance (less expenses) and the pay the employee would have received if not on such leave.

## **SECTION 25 - UNION DUES DEDUCTIONS**

25.1 The Town will, for each covered employee who by written and signed direction so authorizes it, deduct from the wages due such employee in any one month the regular dues fixed by the Union for such month. The Union agrees to give the Town at least thirty (30) days advance notice of any changes in the amount of uniform dues to be deducted. The Town will remit all deductions made to the designated Union official within twenty (20) days of the time deductions are made. Each such authorization will continue in force and effect until revoked: (a) in writing by the employee who signed it; or by termination of such employee's employment. The Union shall indemnify the Town and hold it harmless against any and all claims, demands suits or other forms of liability that may arise out of or by reason of, any action taken by the Town for the purpose of complying with the provisions of this Section.

25.2 This is an Agency Shop Agreement in accordance with the shop provisions enacted by the 1976-1977 New York State Legislature or any later session thereof: It is understood that each employee who is a member of the bargaining unit as defined in the agreement, but is not a member of the Union, shall be liable to contribute to said Union an amount equivalent to Union dues as are authorized, levied and collected from the general membership of the Union in accordance with the provisions of 25.1 above.

25.3 The Town agrees to deduct an amount equal to the normal dues paid by the Union members from the earnings of said employee who is not a member as their representative cost and remit such amount to the Union in the same manner as provided in 25.1 above.

## **SECTION 26 - BULLETIN BOARD**

26.1 The Town shall provide a bulletin board for the posting of union notices relating to meetings or other union business. Such notices shall be approved by the department head prior to being posted and the signature of a duly authorized union representative will be affixed to every notice posted on this space.

## SECTION 27 - GRIEVANCE PROCEDURE

27.1 It is in the intent of the parties hereto attempt to prevent grievances and to settle those that may occur fairly and promptly. Thus, it is agreed that there be time limits between the initiation of a grievance and the steps of the grievance procedure. The time limits set forth in the section are of the essence. They may, however, be extended by mutual written agreement of the parties. The failure of the grievance, either the Union or the employee(s) it represents, to proceed within the time limits set forth shall terminate the grievance at the step. The Failure of the Employer to answer within the time limits set forth will advance the grievance to the immediate next step of the grievance procedure.

27.2 A grievance shall mean an alleged violation, misinterpretation, or an improper application of the expressed terms of this agreement.

27.3 For the purpose of this procedure, workdays will exclude Saturday, Sunday and enumerated holidays.

27.4 An employee shall have the right to present his/her grievance in accordance with the procedure established herein, free from interference, coercion, restraint, discrimination or reprisal and shall have the right to be represented by a Union representative at all steps of the grievance procedure.

27.5 Grievances will be processed in the following manner and within the stated time limits:

### STEP 1

(a) An employee or group of employees who claim to have a grievance may, with or without the Steward, present his/her grievance in writing to the department head within fourteen (14) working days after the occurrence of the alleged violation, or if it concerns an alleged continuing violation, then it must be presented within fourteen (14) working days after the alleged violation first became known or should have known to the employee(s) involved.

(b) Within ten (10) working days after presentation of the grievance, the department head shall discuss the complaint with the grievant(s) and respond in writing to the grievant(s) and the Union.

### STEP 2

(a) In the event that the grievance is not resolved within step 1, the grieved employee(s) of Union may submit within five (5) working days from the departments head's response, a formal written grievance to the Town Board.

(b) The written grievance shall contain the circumstances of the alleged contract violation, the specified provision of the contract alleged violated, the date of the alleged violation, and the remedy sought.

(c) The Town Board shall meet with the aggrieved employee(s) and the Union Representative to discuss and review the allegations. Within fifteen (15) working days of receipt of the Step 2 written grievance, the Town Board must respond in writing to the aggrieved employee(s) with a copy to the Union Representative.

### STEP 3

(a) If a settlement is not reached in Step 2, the Union and only the Union may, within ten (10) working days after the reply of the Town Board is given or is due, by written notice to the Town Board, request arbitration. The Employer and the Union will select the arbitrator by mutual agreement, from lists submitted to them by the New York State Mediation and Conciliation Services and arbitration will be conducted in accordance with the then current Voluntary Rules of the American Arbitration Association. If arbitration is not requested as set forth in this Step, it shall be deemed waived, and the grievance resolved on the basis of the response of the Town Board.

(b) The decision or award of the arbitrator shall be final and binding on the Town, the Union and the grievant(s) to the extent permitted by and in accordance with applicable law and this agreement. The arbitrator shall have no power or authority to make any decisions which requires the commission of an act prohibited by law or which is violation of the terms of this agreement, nor add, subtract from or modify any of the provisions of this agreement. It is understood that any matter that is not specifically set forth in this agreement shall not be subject to arbitration. The arbitrator shall not consider any new allegations or charges which have not been presented in Steps 1 and 2.

(c) The arbitrator shall render this award in writing, setting forth findings of fact, reasoning and conclusions on the issues not later than thirty (30) calendar days from the date statements and proofs were submitted to the arbitrator.

(d) The cost of the service of the arbitrator, including expenses if any, will be borne equally by the Town and the Union. Each Party will be responsible for compensating its own representatives.

Mediation of Grievances If the Union referred in timely fashion to a grievance to arbitration, the parties may jointly agree to submit the grievance to mediation in lieu of arbitration in accordance with the following provisions:

(a) Mediation of grievance will be scheduled only on the basis of a joint request for mediation by the Union and the Employer made within five (5) working days after the Union has referred the grievance to arbitration, unless the parties mutually otherwise agree in writing.

(b) The mediator shall be selected by mutual agreement of the Employer and the Union.

(c) One Representative from each party shall present its position to the mediator provided that the grievant shall have the right to be present at the mediation conference.

(d) The parties' Representative may, but are not required to, present the mediator with a brief written statement of the facts, the issues, and the argument in support of their position. If such a statement is not presented in written form, it shall be presented orally at the beginning of the mediation conference.

(e) Proceedings before the mediator shall be informal in nature. The rules of evidence will not apply and no record of the mediation conference shall be made.

(f) The mediator will have the authority to meet separately with any person or persons, but will have the authority to compel the resolution of a grievance.



(g) If no settlement is reached during the mediation conference, the mediator shall provide the parties with an immediate oral advisory decision which shall include the basis thereof, unless both parties agree that no such decision should be provided.

(h) The mediator's advisory decision, if accepted by both parties, shall not constitute a precedent, unless both parties otherwise agree.

(i) If no settlement is reached at mediation, the Union is free to arbitrate the grievance, provided it advises the Employer in writing within ten (10) calendar days following the mediation conference.

(j) In the event a grievance which has been mediated goes to arbitration, the mediator may not serve as the arbitrator. Nothing said or done by the mediator may be referred to or introduced into evidence at the arbitration hearing and nothing said or done by either party at the mediation conference may be used against the other party in arbitration.

(k) The fees and expenses of the mediator shall be divided equally between the Union and the Employer; provided, however, that each party shall be responsible for compensating its own Representatives.

## **SECTION 28 - UNPAID LEAVE OF ABSENCE**

28.1 A leave of absence without pay, not to exceed one (1) year, may be granted to a full-time permanent employee covered under this agreement, by the department head, provided there is sufficient medical justification stipulated by written documentation of a physician.

28.2 In order to be eligible for an unpaid leave of absence the employee must have exhausted all sick accruals, unused vacation days and compensatory time.

28.3 A leave of absence for employment with other than the Town of Schroepfel shall not be approved.

28.4 Any request for a leave of absence shall be submitted in writing to the department head at least two (2) weeks in advance of the desired starting date. The request shall state the reason for the leave of absence, the desired length of time off the employee is requesting and be supplemented by written documentation of a physician. The department head shall furnish the employee with written notification of his/her decision within ten (10) working days after receiving such application.

28.5 Two weeks prior to the expiration of an employee's unpaid leave of absence, the employee shall be required to inform the department head in writing of his/her intention to return to work. Failure to provide written notification of intentions as required above, shall be deemed to constitute a resignation from Town service.

28.6 During an unpaid leave of absence, all benefits provided an employee shall be discontinued unless the employee assumes all costs. No seniority shall be earned during the unpaid leave period. No sick leave or vacation shall be earned during the unpaid leave period.

Upon the expiration of an unpaid leave of absence, the employee shall be reinstated to the title which he/she occupied at the time the leave was granted, provided that the employee submits to the department head a physician's statement attesting to the employee's recovery and physical fitness to perform the duties of his/her assignment. No employee will be allowed to return to work who has failed to present such physician's statement.

28.7 An employee who obtains an unpaid leave of absence by false pretense or who fails to notify the employer in advance as described in Section 24.4 above, or who fails to report to work on the expiration of any unpaid leave of absence will be deemed to have resigned.

## **SECTION 29 - VACANCIES - BIDDING PROCEDURES**

29.1 When a full-time permanent vacancy occurs in a position contained within the bargaining unit, notice of such vacancy shall be conspicuously posted on the bulletin board at the highway garage five (5) working days prior to the appointment to fill the vacancy. Notice shall contain the title(s) of the position to be filled, minimum qualifications, salary, and last filing date for application.

29.2 Once a position has been posted, it shall be the employee's responsibility to bid on the vacancy by filing an application with the department head, prior to the last filing date announced. In the event that operational needs require the immediate filling of the vacancy, a temporary appointment may be made pending completion of these provisions.

29.3 Selection shall be made by the department head on the basis of experience, training, ability and past performance. If no qualified unit employees bid on vacancy, the vacancy may be filled by the hiring of new employees.

## **SECTION 30 - UNION BUSINESS**

30.1 The Union will designate one (1) employee, its Steward, and will authorize this employee to deal with the Employer about the adjustment of problems arising from this agreement. The name of the Steward shall be certified in writing to the Employer on an annual basis and/or as changes occur.

30.2 The Steward shall be paid at his/her regular straight time rate for conduct of authorized approved business that occurs during his/her normal working hours. If the conduct of authorized, approved Union business extends beyond normal working hours, there shall be no additional pay.

30.3 The Steward shall be granted reasonable time off during working hours without loss of pay provided he/she gives notice to the department head. The Steward shall assure the department head that no inordinate interruption in the work of the employee will be involved. Upon notice, permission may be withheld by the department head because of operating requirements, but such permission shall not be withheld for more than twenty-four hours except in emergencies. If permission is withheld, the grievance time frames shall automatically be extended accordingly.

30.4 A non-employee Union Representative shall have the right to consult with employees represented by the Union for the purpose of adjusting grievances and administering the terms of the agreement, before the start of the employee's normal workday or after completion of the employee's normal workday or during the lunch period.

## **SECTION 31 - UNION RESPONSIBILITY**

31.1 The Union agrees to do its utmost to see that its members perform their respective assigned duties loyally, efficiently and continuously under the terms of this agreement. The Union and the Town employees covered hereby agree that they will respectively use their best endeavors to protect the interest of the Town, to conserve the property thereof, to protect the public and to give service of the highest quality to the Town.

## **SECTION 32 - DISABILITY INSURANCE**

32.1 The Town agrees to provide disability insurance for all employees covered by this agreement with the full cost of said disability insurance plan borne by the Town.

## **SECTION 33 - TERMINAL BENEFITS**

33.1 An employee whose employment is terminated by the Town for any reason except discharge will be given ten (10) working days notice or compensation to the extent such notice is deficient.

33.2 An employee whose employment is terminated by resignation or retirement and who fails to give the Town at least ten (10) working days notice shall forfeit all terminal benefits.

33.3 In the case of the death of an employee, terminal benefits due shall be paid to the employee's designated beneficiary.

33.4 Terminal benefits shall be paid at the regular straight time hourly rate of compensation earned by the employee at the time of termination.

33.5 An employee whose employment is terminated by the Town for reason of disciplinary discharge or who resigns in lieu of disciplinary discharge shall forfeit all terminal benefits.

33.6 Vacation Payments An employee who has completed at least one (1) continuous year of service and whose employment is terminated by reason of resignation, death, layoff (other than as specified in Section 29.5 above) or retirement shall receive compensation for all unused vacation time.

An employee who has not completed at least one year continuous year of service and whose employment is terminated for any reason shall not be eligible to receive any vacation benefits.

33.7 Sick Leave Payments An employee who has completed at least ten (10) years of continuous service and who retires directly into and under the New York State Employee's Retirement System and who is eligible to receive a pension therefrom, shall receive compensation for all earned but unused leave up to a maximum payment of sixty (60) days. The required minimum period of service set forth above shall be waived in the event the employee is granted and receives a New York State Employee's Retirement System accidental disability retirement. An employee retiring from the Town of Schroepfel into New York State Employee's Retirement System may use earned, but unused, sick time in excess of the above mentioned 60 days, to a maximum of 50 days to buy into the Town's Health Plan (plans) based on the rate of pay at the time of retirement. In no way shall this be construed as a means of obtaining a cash buy-out of unused sick time.

Ten days of unused sick time may be used to purchase health insurance through the Town's Health Plan upon termination for reason other than retirement.

#### **SECTION 34 - CALL BACK PAY**

34.1 When an employee, after leaving his/her place of work is called in and reports for work other than during his/her regular scheduled work time, such employee shall be guaranteed a minimum of four (4) hours work or a minimum of four (4) hours compensation.

#### **SECTION 35 - UNIFORMS AND SAFETY EQUIPMENT**

35.1 The Town agrees to continue to provide and maintain uniforms and coveralls to all employees.

35.2 The Town agrees to provide rain gear including boots as well as other safety gear as is necessary.

35.3 The Town agrees to reimburse each employee for the purchase of steel toed work shoes to a maximum of One hundred thirty (\$130.00) dollars per calendar year.

#### **SECTION 36 - REST PERIOD AND LUNCH PERIOD**

36.1 Rest Period: The Town shall allow one (1) fifteen (15) minute paid rest period during the first half of an employee's shift.

36.2 Lunch Period: The Town shall allow one (1) one-half (1/2) hour unpaid lunch period.

#### **SECTION 37 - INSURANCE**

37.1 The Town shall provide its present health plan, including a prescription drug provision, or a plan with equivalent benefits.

POMCO/OCEBA Plans C and D (to replace Blue Cross/Blue Shield Plans) available to all Highway Department Employees.

- a. Employee to pay 100% of vision care option if he/she chooses to use vision care plan. If employee does not choose to use Dental Care Plan, the Town will pay the full cost of Vision Care Plan, single or family coverage.
- b. Employee to pay 100% of Pre-tax option if required.
- c. Employee to pay 50% of Dental Care option (single or family coverage) Town to pay balance if employee chooses to use this plan.

37.2 The Town shall contribute one hundred percent (100%) of the cost of individual coverage.

37.3 The Town shall contribute fifty percent (50%) toward the cost of dependent coverage.

## SECTION 38 - REGULAR COMPENSATION RATES

38.1 Employees covered by this agreement holding position with the following classification will be compensated in accordance with the hourly rate schedule below:

<u>Job Classification</u>	January 1, 1999	January 1, 2000
Mechanic/HEO	\$ 13.61 (3%)	\$ 14.02 (3%)
Medium Equipment Oper.	13.44 (3%)	13.84 (3%)
Laborer	12.91 (3%)	13.30 (3%)

Mechanic holding valid New York State Department of Motor Vehicle Certification for inspection to be paid \$.50 over Mechanics Rate.

38.2 The above referenced rates shall take place January 1, 1999.

38.3 All new employees hired after the effective date of this agreement will be hired at fifty cents (\$0.50) per hour less than the regular hourly wage rate of pay. Upon successful completion of one (1) year continuous service, the employee will receive the regular hourly wage rate of pay.

38.4 **New Job Classification** - Working Foremen - To be selected by the Highway Superintendent from the Town Highway Department, he or she shall be vested with all supervisory and instructional authority of the Highway Superintendent in his absence. The Highway Superintendent shall have full authority to place the Working Foreman back within the regular workforce at his discretion. Wages for the Working Foremen shall be the highest contract rate plus \$.50 per hour.

38.5 The Highway Department and its Supervisor shall maintain an up to date record of each employee's earned and used leave credits. These records shall be open to the employees inspection with one day's notice (excluding weekends) to the Highway Departments Supervisor.

## SECTION 39 - GENERAL PROVISIONS

39.1 Savings Clause In the event that any term or provision of this agreement shall be determined or declared by any court or statute to be null, void or inoperative, such decision shall not effect any of the rest of this agreement which shall thereafter continue in effect. in the event the parties agree to meet within thirty (30) days to attempt to negotiate a replacement for the affected Article(s).

39.2 TAYLOR LAW - PURSUANT TO THE PROVISIONS CONTAINED IN SUBDIVISION 1 OF THE SECTION 204A OF THE CIVIL SERVICE LAW, IT IS AGREED BY AND BETWEEN THE PARTIES THAT ANY PROVISIONS OF THIS AGREEMENT REQUIRING LEGISLATURE ACTION TO PERMIT ITS IMPLEMENTATION BY AMENDMENT OF LAW OR BY PROVIDING THE ADDITIONAL FUNDS THEREFOR SHALL NOT BECOME EFFECTIVE UNTIL THE APPROPRIATE LEGISLATIVE BODY HAS GIVEN APPROVAL.

39.3 No Waiver The failure of either party to this agreement to insist upon the performance by the other party of a particular act will not be deemed to be a waiver of the first party's rights in regard to the performance of said act.

**SECTION 40 - TERMS OF AGREEMENT**

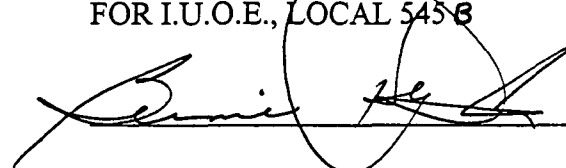
40.1 This agreement shall be in full force and effective from 12:01 A.M. January 1, 1999 to 11:59 P.M. December 31, 2000.

FOR THE TOWN OF SCHROEPPPEL

  
\_\_\_\_\_

12-31-98  
Date

FOR I.U.O.E., LOCAL 545 B

  
\_\_\_\_\_

12-31-98  
Date